

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

02-20245 CR-SEITZ

CASE NO. _____

21 USC 952(a)
21 USC 841(a)(1)

MAGISTRATE JUDGE
GARDER

UNITED STATES OF AMERICA

v.

JOSEPH RAFAEL LEMUS CORNEJO /

INDICTMENT


The Grand Jury charges that:

COUNT I

On or about March 3, 2002, at Miami International Airport, in Miami-Dade County,
in the Southern District of Florida and elsewhere, the defendant,

JOSEPH RAFAEL LEMUS CORNEJO,

did knowingly and intentionally import into the United States, from a place outside thereof,
a Schedule I controlled substance, that is, one hundred grams or more of a mixture and
substance containing a detectable amount of heroin; in violation of Title 21, United States
Code, Sections 952(a) and 960(b)(2).

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S.D. OF FLORIDA

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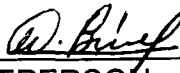
COUNT II

On or about March 3, 2002, at Miami International Airport, in Miami-Dade County, in the Southern District of Florida and elsewhere, the defendant,

JOSEPH RAFAEL LEMUS CORNEJO,

did knowingly and intentionally possess with intent to distribute a Schedule I controlled substance, that is, one hundred grams or more of a mixture and substance containing a detectable amount of heroin; in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(B).

A TRUE BILL



FOREPERSON



GUY A. LEWIS
UNITED STATES ATTORNEY



CHARLES E. BUROSS
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**02-20245CR-SEITZ**

UNITED STATES OF AMERICA

CASE NO.

v.

CERTIFICATE OF TRIAL ATTORNEY*

MAGISTRATE JUDGE

JOSEPH RAFAEL LEMUS CORNEJO

Superseding Case Information:

GARBER

Court Division: (Select One)

New Defendant(s) Yes ☐ No ☐

Number of New Defendants

Total number of counts

☒ Miami ☐ Key West
☐ FTL ☐ WPB ☐ FTP

I do hereby certify that:

- I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the indictment information attached hereto.
- I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.

- Interpreter: (Yes or No) Yes
List language and/or dialect Spanish

- This case will take 2 days for the parties to try.

- Please check appropriate category and type of offense listed below:
(Check only one) (Check only one)

I	0 to 5 days	<input checked="" type="checkbox"/>	Petty	<input type="checkbox"/>
II	6 to 10 days	<input type="checkbox"/>	Minor	<input type="checkbox"/>
III	11 to 20 days	<input type="checkbox"/>	Misdem.	<input type="checkbox"/>
IV	21 to 60 days	<input type="checkbox"/>	Felony	<input checked="" type="checkbox"/>
V	61 days and over	<input type="checkbox"/>		

- Has this case been previously filed in this District Court? (Yes or No) No

If yes:

Judge: _____ Case No. _____
(Attach copy of dispositive order)Has a complaint been filed in this matter? (Yes or No) Yes

If yes:

Magistrate Case No. 02-2349-GARBER

Related Miscellaneous numbers: _____

Defendant(s) in federal custody as of 03/03/02

Defendant(s) in state custody as of _____

Rule 20 from the _____ District of _____

Is this a potential death penalty case? (Yes or No) No

- Does this case originate from a matter pending in the U. S. Attorney's Office prior to April 1, 1999? Yes ☒ No ☐ If yes, was it pending in the Central Region? Yes ☐ No ☐

- Did this case originate in the Narcotics Section, Miami? Yes ☒ No ☐


 CHARLES E. DUROSS
 ASSISTANT UNITED STATES ATTORNEY
 Court ID No. A5500618

*Penalty Sheet(s) attached

REV.6/27/00

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
PENALTY SHEET**

02-20245 CR-SEITZ

Defendant Name: JOSEPH RAFAEL LEMUS CORNEJO Case No. **MAGISTRATE JUDGE
GARBER**

Count #: I	
21 USC 952(a)/Importation of Heroin	
*Max Penalty: 40 Years' Imprisonment	
Count #: II	
21 USC 841(a)(1)/Possession with the Intent to Distribute Heroin	
*Max Penalty: 40 Years' Imprisonment	
Count #:	
*Max Penalty:	
Count #:	
*Max Penalty:	
Count #:	
*Max Penalty:	
Count #:	
*Max Penalty:	

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S.D. FLORIDA

*Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.

No. **02-20245 CR-SEITZ**

UNITED STATES DISTRICT COURT

MAGISTRATE JUDGE
GARRETT

SOUTHERN District of FLORIDA

Division

THE UNITED STATES OF AMERICA

vs.

JOSEPH RAFAEL LEMUS CORNEJO

INDICTMENT

In violation of 21 USC 952(a)
21 USC 841(a) (1)

A true bill.

FGJ 00-05 (M/A)

Foreman

Filed in open court this 14th day,

of March A.D. 2002

Clerk

Bail, \$

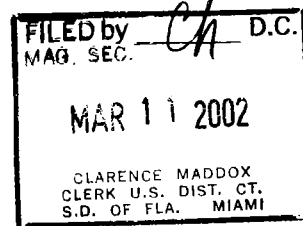
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 02-2349-GARBER

UNITED STATES OF AMERICA,
Plaintiff,

vs.

JOSEPH LEMUS CORNEJO,
Defendant.



ORDER ON DEFENDANT'S MOTION TO PRESERVE EVIDENCE

THIS CAUSE is before the Court on the defendant's motion to preserve evidence. The Court being fully advised in the premises, it is

ORDERED AND ADJUDGED that the defendant's motion is hereby **GRANTED**. The government shall preserve and shall immediately direct its agents to preserve all of the alleged contraband evidence in this case as well as any other personal property, documents or effects of the defendant seized at the time of his arrest.

DONE AND ORDERED at Miami, Florida this 11th day of March, 2002 .


UNITED STATES MAGISTRATE JUDGE

cc: Joaquin Mendez, AFD
United States Attorney's Office

Ch

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

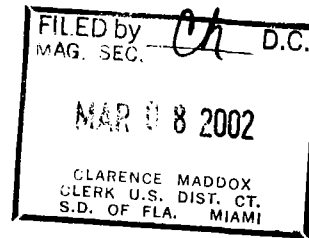
Case No. 02-2349-Garber

UNITED STATES OF AMERICA

v.

JOSEPH RAFAEL LEMUS CORNEJO,

Defendant.



DETENTION ORDER--RISK OF FLIGHT AND DANGER TO THE COMMUNITY

On March 8, 2002, a hearing was held pursuant to Title 18, United States Code, Section 3142(f) to determine whether the defendant should be detained prior to trial. Having considered the factors enumerated in Title 18, United States Code, Section 3142(g), this Court finds that no condition or combination of conditions will reasonably assure the appearance of this defendant as required at all future court proceedings and the safety of the community if this defendant is released prior to trial. Therefore, it is hereby ordered that the defendant be detained prior to trial and until the conclusion thereof.

In accordance with the provisions of Title 18, United States Code, Section 3142(i), the Court hereby makes the following findings of fact and statement of reasons for the detention:

1. The defendant is charged with importation of heroin and possession with intent to distribute heroin, in violation of Title 21, United States Code, Sections 952(a) and 841(a)(1). The defendant, thus, is charged with narcotics offenses for which a maximum sentence prescribed for each offense exceeds ten (10) years, resulting in a rebuttable presumption that no

8/Ch

condition or combination of conditions will reasonably assure the appearance of defendant at all further court proceedings if this defendant is released prior to trial. See 18 U.S.C. §§3142(e)-(g).

2. The weight of the evidence against the defendant is sufficient to support pretrial detention on the grounds of risk of flight and danger to the community. See §3142(g)(2). Specifically, the defendant passed seventy (70) pellets of heroin from his intestinal tract after having arrived in the United States on a flight from Panama. The approximate weight of the seized heroin totaled 1.9 pounds. Following his arrest, the defendant stated he had been paid certain amounts prior to his flight to the United States and was to receive the balance of a total of \$10,000 once he delivered the heroin in the United States.
3. The defendant is a citizen of Panama.
4. The Court hereby incorporates and makes part of this order the facts contained within the report of Pretrial Services.
5. The Court specifically finds that there are no conditions or combination of conditions which would reasonably assure the defendant's appearance or the safety of any other person or the community, as required under Title 18, United States Code, Section 3142(e).
6. Based on the above findings of fact, which were supported by clear and convincing evidence, the Court has concluded that this defendant presents a risk of flight and a danger to the community.

The Court hereby directs:

1. That the defendant be detained without bond in a facility separate, to the extent practicable, from persons awaiting sentence or serving sentences or being held in custody pending appeal.

2. That the defendant be afforded reasonable opportunity for private consultation with counsel; and

3. That, on order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility in which the defendant is confined deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

DONE AND ORDERED at Miami, Florida this 8 day of March, 2002.


BARRY L. GARBER
UNITED STATES MAGISTRATE JUDGE

cc: Pretrial Services
Marshal's Service
Charles Duross, AUSA
Joaquin Mendez, AFD

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 02-2349-GARBER

UNITED STATES OF AMERICA,
Plaintiff,

vs.

JOSEPH LEMUS CORNEJO,
Defendant.

_____:

DEFENDANT'S MOTION TO PRESERVE EVIDENCE

The defendant through counsel and pursuant to Rule 16 of the Federal Rules of Criminal Procedure, moves for an order directing the government to preserve and to immediately direct its agents to preserve all of the alleged contraband evidence in this case in addition to all items of personal clothing and effects that were in the actual or constructive possession of the defendant at the time of his arrest. In support of this motion, undersigned counsel represents as follows:

1. The defendant has been charged with importation of and possession of with intent to distribute illegal drugs.
2. The defendant was arrested at Miami International Airport after disembarking from an airplane which arrived from abroad. Upon the defendant's arrest, all of his baggage and personal property were seized and taken from him.
3. It is necessary that all the alleged contraband in this case rather than just a representative sample be preserved so that the defendant has the opportunity to have an independent weighing of the contraband to confirm its exact weight.
4. It is also necessary that all items that "were obtained from or belonged" to the

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S.D. OF FLA - MIA
D.C.

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defendant be preserved to permit authorized discovery. *See* Federal Rule of Criminal Procedure 16 and the Standing Discovery Order. *See also United States v. Rodriguez*, 799 F.2d 649, 652 (11th Cir. 1986). Documents, packaging, suitcases and items of clothing seized from the defendant are material to the preparation of the defense as they may play an important role in uncovering admissible evidence, aiding in witness preparation or assisting in impeachment. *See United States v. Felt*, 491 F. Supp. 179 (D.D.C. 1979).

5. Furthermore, preservation of all personal property in the defendant's possession at the time of his arrest and seized from or taken from him in connection with the charges against him is necessary to the defense as that personal property may well be evidence of his lack of specific intent to import and/or to distribute drugs.

WHEREFORE, the defendant respectfully requests this Court to enter an order directing the government to preserve and to immediately direct its agents to preserve all of the alleged contraband evidence in this case as well as any personal property, documents or effects that were in the defendant's actual or constructive possession at the time of his arrest.

Respectfully submitted,

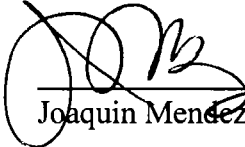
KATHLEEN M. WILLIAMS
FEDERAL PUBLIC DEFENDER

By: 

Joaquin Mendez
Supervisory Assistant Federal Public Defender
Florida Bar No.0814652
150 West Flagler Street, Suite 1700
Miami, Florida 33130-1556
(305) 530-7000, Ext. 147
(305) 536-4559, Fax

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this 7th day of March, 2002, to United States Attorney's Office, 99 Northeast 4th, 2nd Floor, Miami, Florida 33132-2111.


Joaquin Mendez

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

Case No. 02-2349-GARBER

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH LEMUS CORNEJO,
Defendant.

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**DEFENDANT'S INVOCATION OF RIGHTS
TO SILENCE AND COUNSEL**

The defendant named above does hereby invoke his rights to remain silent and to counsel with respect to any and all questioning or interrogation, regardless of the subject matter, including, but not limited to: matters that may bear on or relate to arrest, searches and seizures, bail, pretrial release or detention, evidence at trial, guilt or innocence, forfeitures; or that may be relevant to sentencing, enhanced punishments, factors applicable under the U.S. Sentencing Guidelines, restitution, immigration status or consequences resulting from arrest or conviction; appeals or other post-trial proceedings.


The defendant requests that the U.S. Attorney ensure that this invocation of

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rights is honored, by forwarding a copy of it to all law enforcement agents, government officials, or employees associated with the investigation of any matters relating to the defendant. Any contact with the defendant must be made through the defendant's lawyer, undersigned counsel.

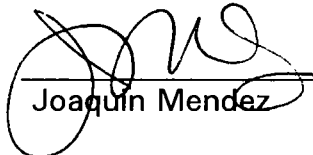
Respectfully submitted,

KATHLEEN M. WILLIAMS
FEDERAL PUBLIC DEFENDER

By: 
Joaquin Mendez
Supervisory Assistant Federal Public Defender
Florida Bar No.0814652
150 West Flagler Street, Suite 170
Miami, Florida 33130-1556
Tel: (305) 530-7000
Fax No. (305) 536-4559

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing instrument was mailed this 7th day of March, 2002 to United States Attorney, 99 N.E. 4th Street, Miami, Florida 33132.


Joaquin Mendez

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO: 02-2349-GARBER

UNITED STATES OF AMERICA,

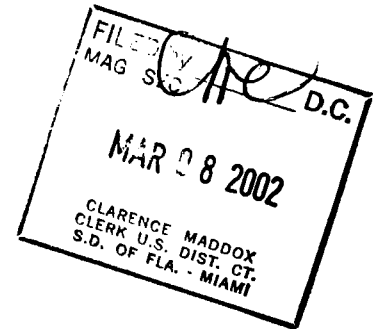
Plaintiff,

vs.

JOSEPH RAFAEL LEMUS CORNEJO

ORDER

Defendant.



Pursuant to the Bail Reform Act, a detention hearing was held this date in accordance with 18 U.S.C. Section 3142(f). At the conclusion of the evidentiary hearing, the findings of fact and conclusions of law required by the Act were dictated into the record. It is thereupon

ORDERED AND ADJUDGED as follows:

1. The Defendant above named shall be detained pending trial in this case for the reasons stated on the record by the Court. The Court has found the defendant to be a risk of flight and/or a danger to the community.

2. A final Order of Detention memorializing the dictated findings and conclusions shall be entered forthwith.

DONE AND ORDERED in Miami, Florida this 8TH day of MARCH, 2002.

TAPE NO. 2002-C-21-1817

UNITED STATES MAGISTRATE JUDGE
BARRY L. GARBER

c: AUSA
Defense Counsel (AFPD)
Pretrial Services
U.S. Marshal

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDACASE NO 02-2349-Barber

UNITED STATES OF AMERICA

Plaintiff,

v.

JOSEPH LEMUS *Cornejo*

Defendant.

DOB: 1-3-77

Reg# 68387-004

ORDER ON INITIAL APPEARANCE

Language SPANISHTape No. 02C-19-25AUSA D. Buckner

Agent _____

FILED by <u>[Signature]</u>	D.C.
DKTG	
MAR 6 2002	
CLARENCE MADDOX CLERK U.S. DIST. CT. S.D. OF FLA. - MIAMI	

The above-named defendant having been arrested on 3-3-02 having appeared before the court for initial appearance on 3-6-02 and proceedings having been held in accordance with **F.R.C.P. 5 or 40(a)**, it is thereupon

ORDERED as follows:

1. _____ appeared as permanent/temporary counsel of record.

Address: _____

Zip Code: _____

Telephone: _____

2. AFPD - J. Mendez appointed as permanent counsel of record.

Address: _____

Zip Code: _____

Telephone: _____

3. The defendant shall attempt to retain counsel and shall appear before the court at 10:00 A.M. on _____, 2002.

4. Arraignment/Preliminary/Removal/Identity hearing is set for 10am 3/20, 2002.5. The defendant is held in temporary pretrial detention pursuant to 18 U.S.C. Section 3142 (d) or (f) because Don't reqA detention hearing, pursuant to 18 U.S.C. Section 3142(f), is set for 10am 3/8, 2002.

6. The defendant shall be release from custody upon the posting of the following type of appearance bond, pursuant to 18 U.S.C. Section 3142:

This bond shall contain the standard conditions of bond printed in the bond form of this Court and, in addition, the defendant must comply with the special conditions checked below:

___a. Surrender all passports and travel document to the Pretrial Services Office.

___b. Report to Pretrial Services as follows: ___times a week by phone, ___time a week in person;

other: _____

___c. Submit to random urine testing by Pretrial Services for the use of non-physician-prescribed substances prohibited by law.

___d. Maintain or actively seek full time gainful employment.

[Handwritten signature]

JOSEPH LEMUS

- ☐ e. Maintain or begin an educational program.
☐ f. Avoid all contact with victims of or witnesses to the crimes charged.
☐ g. Refrain from possessing a firearm, destructive device or other dangerous weapon.
☐ h. Comply with the following curfew: _____
☐ i. Avoid all commercial transportation facilities; no airports, no marinas, no bus terminals.
☐ j. Comply with the following additional special conditions of this bond: _____

This bond was set: At Arrest _____
On Warrant _____
After Hearing _____

If bond is changed from that set in another District, the reason pursuant to Rule 40(f) is _____

_____ If this space is checked, an evidentiary hearing pursuant to United States v. Nebbia, 357, F.2d 303 (2 Cir. 1966) shall be held prior to the posting of the bond. Such hearing shall be scheduled promptly upon notification to the court that the defendant is ready to post bond.

7. The defendant has been advised by the court that if he or she is released on bond pursuant to the conditions set forth herein or those later ordered by the court, the defendant is subject to arrest and revocation of release and to various civil and criminal sanctions for any violation of those conditions. These various sanctions and penalties are set forth more fully in the Appearance Bond itself.
8. The defendant is committed to the custody of the United States Marshal until an appearance bond has been executed in accordance with this or subsequent court order.

DONE AND ORDERED at Miami, Florida, this 6TH day of MARCH
2002 .

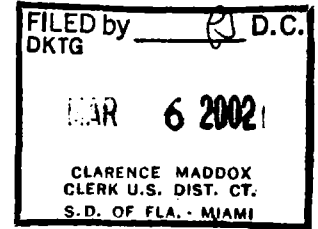


**UNITED STATES MAGISTRATE JUDGE
BARRY L. GARBER**

c: Assistant U.S. Attorney *D. Beckner*
Defendant
Counsel- *AFPD*
U.S. Marshal
Pretrial Services/Probation

CASE NUMBER 02-2349-Garben

INTERPRETER REQUIRED IN CASE

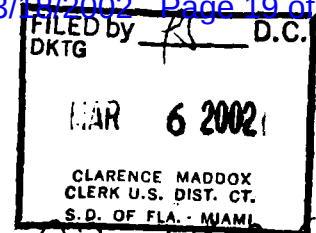


FOREIGN LANGUAGE SPANISH

DEFENDANT(S) JOSEPH LEMUS

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UNITED STATES DISTRICT COURT
Southern District of Florida



UNITED STATES OF AMERICA

Plaintiff

V.S.

Case Number: 02-2349-Carlsen

**REPORT COMMENCING
CRIMINAL ACTION**

Joseph Lemus 68387-004

Defendant

To Clerk's Office
U.S. District Court

Miami

Ft. Lauderdale
(circle one)

W. Palm Beach

NOTE: CIRCLE APPROPRIATE LOCATION FOR APPEARANCE IN MAGISTRATES COURT ABOVE.

All items are to be completed. Information not applicable or unknown will be indicated as "NA"

- (1) Date and Time of Arrest: 03-03-02 1728hr
- (2) Language Spoken: Spanish
- (3) Offense(s) Charged: 21 USC 952 - Unlawful Importation of Narcotics
21 USC 841 (a) (1) - Possession With Intent to Distribute Narcotics
- (4) U. S. Citizen () Yes (X) No () Unknown
- (5) Date of Birth: 01-03-77
- (6) Type of Charging Document: (Check One)
() Indictment (X) Complaint () To be filed/Already filed
() Bench Warrant for Failure to Appear Case #: _____
() Probation Violation Warrant
() Parole Violation Warrant

Originating District: Southern District of Florida

COPY OF WARRANT LEFT WITH BOOKING OFFICER () YES () NO

Amount of Bond: \$ _____ Who set Bond: _____

- (7) Remarks: _____
- (8) Date: _____ Arresting Officer: S/A Francis Wambst
- (9) Agency: U. S. CUSTOMS SERVICE (305) 597-6000 SAIC/Miami
Comments: [Signature]

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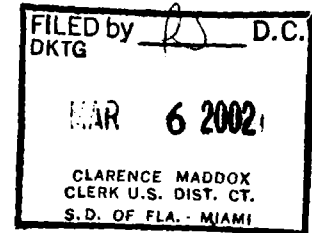
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 02-2349-GARBER

UNITED STATES OF AMERICA

vs.

JOSEPH RAFAEL LEMUS CORNEJO



CRIMINAL COVER SHEET

1. Did this case originate from a matter pending in the United States Attorney's Office prior to April 1, 1999? ____ Yes X No
2. Did this case originate from a matter pending in the Central Region of the United States Attorney's Office prior to April 1, 1999? ____ Yes X No

Respectfully submitted,

GUY A. LEWIS
UNITED STATES ATTORNEY

BY: _____

CHARLES E. DUROSS
ASSISTANT UNITED STATES ATTORNEY
Court No. A5500618
99 N. E. 4th Street
Miami, Florida 33132-2111
TEL (305) 961-9358
FAX (305) 530-7976

United States District Court

SOUTHERN

DISTRICT OF

FLORIDA

UNITED STATES OF AMERICA

V.

CRIMINAL COMPLAINT

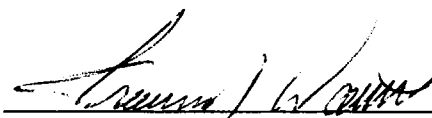
JOSEPH RAFAEL LEMUS CORNEJO

CASE NUMBER: 02-2349-GARBER

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about March 3, 2002, at Miami International Airport, Miami-Dade County, in the Southern District of Florida and elsewhere, the defendant did knowingly and intentionally import into the United States from a place outside thereof a Schedule I controlled substance, that is, a mixture and substance containing a detectable amount of heroin, in violation of Title 21, United States Code, Section 952(a); and did knowingly and intentionally possess with the intent to distribute a Schedule I controlled substance, that is, a mixture and substance containing a detectable amount of heroin, in violation of Title 21, United States Code, Section 841(a)(1).

I further state that I am a Special Agent and that this complaint is based on the following facts:

On or about March 3, 2002, at approximately 5:28 p.m., the defendant, JOSEPH RAFAEL LEMUS CORNEJO, arrived at Miami International Airport aboard American Airlines Flight #958 from Panama City, Panama. After being admitted into the United States by the Immigration & Naturalization Service, the defendant presented himself and his luggage to the U.S. Customs Service for examination. During a secondary examination, U.S. Customs Inspectors suspected the defendant to be an internal carrier of narcotics. An x-ray taken of the defendant indicated several pellets distributed throughout his intestinal tract. Seventy (70) pellets were subsequently recovered from the defendant's body. A field test of the white powdery substance found in the pellets proved positive for the presence of heroin. The estimated gross weight of the white powdery substance found inside the pellets was 1.90 pounds.



Signature of Complainant

FRANCIS WAMBST, SPECIAL AGENT
UNITED STATES CUSTOMS SERVICE
MARCH 6, 2002

Sworn to before me, and subscribed in my presence,

March 6, 2002

Date

at Miami, Florida

City and State

BARRY L. GARBER

UNITED STATES MAGISTRATE JUDGE

Name and Title of Judicial Officer



Signature of Judicial Officer